

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X

RIGOBERTO MOLINA FRANCISCO,  
individually and on behalf of others  
similarly situated

Plaintiff

Index No.: **19 cv 05585**

-against-

**SETTLEMENT AGREEMENT  
AND RELEASE**

SUNDANCE KITCHEN INC. (D/B/A  
SUNDANCE KITCHEN & CANTINA),  
SUNDANCE DELI INC. (D/B/A SUNDANCE  
DELI), GENARO DOMINGUEZ , and  
CASIANO DOMINGUEZ ,

Defendants

-----X

This Settlement Agreement and Release of Claims (“Agreement”) is entered into by and among Plaintiff RIGOBERTO MOLINA FRANCISCO (“Plaintiff Molina”) on the one hand, SUNDANCE KITCHEN INC. (D/B/A SUNDANCE KITCHEN & CANTINA), SUNDANCE DELI INC. (D/B/A SUNDANCE DELI) , (“Defendant Corporations”), GENARO DOMINGUEZ , and CASIANO DOMINGUEZ, (“Individual Defendants”), (collectively, “Defendants”), on the other hand.

WHEREAS, Plaintiff Molina alleges that he worked for Defendants as an employee; and

WHEREAS, a dispute has arisen regarding Plaintiff Molina’s alleged employment and the terms thereof, which dispute has resulted in the filing of an action in the United States District Court for the Southern District of New York, Civil Action No: 1:19-cv-5585 (hereinafter “the Litigation”), alleging, among other things, a violation of federal and state wage and hour and overtime laws;

WHEREAS, Defendants deny any violation of federal and state wage and hour and overtime laws; and

WHEREAS, the parties desire to resolve all disputes between them without the necessity of further litigation;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. Payment: Defendants shall pay or cause to be paid to Plaintiff Molina, subject to the terms and conditions of this Agreement, and as full, complete, and final settlement and final satisfaction of any and all claims or potential claims Plaintiff Molina may have against Defendants through the Effective Date of this Agreement, including all counsel fees and costs incurred by Plaintiff Molina, the gross sum of Twenty Two Thousand Dollars and No Cents (**\$22,000.00**) (the "Settlement Amount") to be paid to Plaintiff Molina's attorneys in Two installments, as follows:

Installment One: Post-dated checks in the total amount of Eleven Thousand Dollars and No Cents (\$11,000.00) for immediate deposit Twenty (20) after settlement approval, delivered to Plaintiffs' counsel, divided as follows:

- (a) Seven Thousand and Ninety Dollars and Sixty-Seven Cents (\$7,090.67) for Plaintiff Molina
- (b) Three Thousand Nine Hundred and Nine Dollars and Thirty-Three Cents (\$3,909.33) made payable to "Michael A. Faillace, Esq. & Associates, P.C." accounting for attorneys' fees.

Installment Two: Post-dated checks in the total amount of Eleven Thousand Dollars and No Cents (\$11,000.00) for immediate deposit Ninety (90) days after settlement approval, delivered to Plaintiffs' counsel, divided as follows:

- (a) Seven Thousand and Ninety Dollars and Sixty-Seven Cents (\$7,090.67) for Plaintiff Molina
- (b) Three Thousand Nine Hundred and Nine Dollars and Thirty-Four Cents (\$3,909.33) made payable to "Michael A. Faillace, Esq. & Associates, P.C." accounting for attorneys' fees.

(a). Concurrently with the execution of this Agreement, Defendants SUNDANCE KITCHEN INC. (D/B/A SUNDANCE KITCHEN & CANTINA), SUNDANCE DELI INC. (D/B/A SUNDANCE DELI), ("Defendant Corporations"), GENARO DOMINGUEZ , and CASIANO DOMINGUEZ, ("Individual Defendants") shall each execute and deliver to Plaintiff Molina's counsel confessions of judgment ("Confessions of Judgment") in the form annexed hereto as Exhibits respectively. The Parties hereby acknowledge and agree that the Confessions of Judgments will not be entered and/or filed at any time other than (i) in the event that the Defendants fail to make any of the installment payments as set forth above, i.e., one of the postdated checks fails to clear, or Defendants fail to deliver the payments to Plaintiff Molina's counsel within thirty days of the Court approving the Agreement, and (ii) Defendants fail to cure such default within ten (10) business days of receipt of written notice (to be delivered to Defendants by email) via their counsel, Vincent Bauer, Esq., at vbauer@vbauerlaw.com. Any such Notice of Default shall be deemed received one (1) days after it is mailed.

2. Release and Covenant Not To Sue: Plaintiff Molina hereby irrevocably and unconditionally releases from and forever discharges and covenant not to sue Defendants, and for each of them, their heirs, successors, assigns, affiliates, parent organizations, subsidiaries, directors, owners, shareholders, members, agents, attorneys, legal representatives and managers any and all charges, complaints, claims, causes of action, suits, debts, liens, contracts, rights, demands, controversies, losses, costs and or expenses, including legal fees and any other liabilities of any kind or nature whatsoever, known or unknown, suspected or unsuspected, whether fixed or contingent (hereinafter referred to as “claim” or “claims”) which Plaintiff Molina at any time has, had, claims or claimed to have against Defendants relating specifically to the claims in the Litigation that have occurred as of the Effective Date of this Agreement. Similarly, Defendants release and discharge Plaintiff Molina from any and all known claims, and liabilities of any kind that they have, had or claimed to have against Plaintiff Molina relating specifically to the claims in the Litigation that have occurred as of the Effective Date of this Agreement.

3. No Admission of Wrongdoing: This Agreement and compliance with this Agreement shall not be construed as an admission by Defendants of any liability whatsoever, or of any violation of any statute, regulation, duty, contract, right or order.

4. Modification of the Agreement: This Agreement may not be changed unless the changes are in writing and signed by a proper representative of Plaintiff Molina and Defendants.

5. Acknowledgments: Plaintiff Molina and Defendants acknowledge that they are not relying upon any statement, representation or promise in executing this Agreement except for statements, representations or promises expressly set forth in this Agreement. They further acknowledge and agree that the only consideration for signing this Agreement is as set forth in this Agreement.

6. Notices: Notices required under this Agreement shall be in writing and shall be deemed given on the first business day following first-class mailing or electronic transmission thereof. Notice hereunder shall be delivered to:

To Plaintiff Molina:

Michael Faillace, Esq.  
**MICHAEL FAILLACE & ASSOCIATES, P.C.**  
60 East 42<sup>nd</sup> St. Suite 4510  
New York, NY 10165  
Tel: (212) 317-1200  
Fax: (212) 317-1620  
Email: michael@faillacelaw.com

To Defendants:

Vincent Bauer, Esq.



425 Madison Avenue  
17th Floor  
New York, NY 10016  
Tel: (212) 575-1517  
Fax: 212-689-2726  
E-mail: vbauer@vbauerlaw.com

7. Governing Law: This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of New York, excluding the conflict-of-laws principles thereof.

**The parties consent and stipulate to the personal jurisdiction of the United States District Court for the Southern District of New York and the Supreme Court of the State of New York in any subsequent proceeding to enforce this Agreement.**

8. Enforceability: If any provision of this Agreement is held to be illegal, void, or unenforceable, such provision shall be of no force or effect. However, the illegality or unenforceability of such provision shall have no effect upon, and shall not impair the legality or enforceability of, any other provision of this Agreement, provided, however, that upon any finding by a court of competent jurisdiction that a release or waiver of claims or rights or a covenant set forth herein is illegal, void or unenforceable, Plaintiff Molina agrees to promptly execute a release, waiver and/or covenant that is legal and enforceable.

10. Release Notification: Defendants advised Plaintiff to discuss the terms of this Agreement and release of claims with their legal counsel and Plaintiff acknowledges that he has consulted with Michael Faillace, Esq. of Michael Faillace & Associates, P.C., Plaintiff Molina acknowledges that it is their choice to waive any potential claims in return for the benefits set forth herein and that each of them made this decision after careful thought and a reasonable period of time to consider this Agreement, and after an opportunity to consult with their attorneys. Plaintiff Molina confirms that this Settlement Agreement and Release has been translated to her in Spanish and that he understands the terms of this Agreement and that he is signing this Agreement voluntarily.

11. Counterparts: To signify their agreement to the terms of this Agreement and Release, the parties have executed this Agreement on the date set forth opposite their signatures, which appear below. This Agreement may be executed in two or more counterparts and each of such counterparts, for all purposes, shall be deemed to be an original but all of such counterparts together shall constitute but one and the same instrument, binding upon all parties hereto, notwithstanding that all of such parties may not have executed the same counterpart. This agreement may also be executed by facsimile transmission.

PLAINTIFF:

By: \_\_\_\_\_

RIGOBERTO MOLINA FRANCISCO

Date: \_\_\_\_\_

06/10/2020

DEFENDANTS:

By: \_\_\_\_\_

Date: \_\_\_\_\_

SUNDANCE KITCHEN INC. (D/B/A  
SUNDANCE KITCHEN & CANTINA)

By: \_\_\_\_\_

Date: \_\_\_\_\_

SUNDANCE DELI INC. (D/B/A SUNDANCE  
DELI)

By: \_\_\_\_\_

Date: \_\_\_\_\_

GENARO DOMINGUEZ

By: \_\_\_\_\_

Date: \_\_\_\_\_

CASIANO DOMINGUEZ



# EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK

-----X  
RIGOBERTO MOLINA FRANCISCO,  
individually and on behalf of others  
similarly situated

Plaintiff

**AFFIDAVIT OF CONFESSION  
OF JUDGMENT**

**Index No.: 19 cv 05585**

-against-

SUNDANCE KITCHEN INC. (D/B/A  
SUNDANCE KITCHEN & CANTINA),  
SUNDANCE DELI INC. (D/B/A SUNDANCE  
DELI), GENARO DOMINGUEZ , and  
CASIANO DOMINGUEZ ,

Defendants

-----X

STATE OF NEW YORK        )  
                                      : ss.:  
COUNTY OF WESTCHESTER )

1. I reside in Westchester County.
2. I, Genaro Dominguez, am the President of Sundance Kitchen, Inc. (d/b/a Sundance Kitchen & Cantina). I am duly authorized to make this affidavit of confession of judgment on behalf of Sundance Kitchen, Inc. (d/b/a Sundance Kitchen & Cantina).
3. Sundance Kitchen, Inc. (d/b/a Sundance Kitchen & Cantina) maintains its principal place of business in Westchester County at 208 Mamaroneck Avenue, White Plains, New York 10601.
4. Pursuant to the terms of the Settlement Agreement and Release by and between RIGOBERTO MOLINA FRANCISCO (“Plaintiff”) and SUNDANCE KITCHEN INC. (D/B/A SUNDANCE KITCHEN & CANTINA), SUNDANCE DELI INC. (D/B/A SUNDANCE DELI) GENARO DOMINGUEZ , and CASIANO DOMINGUEZ,(each a “Defendant” and collectively, “Defendants”), to which this Affidavit is annexed, I hereby confess judgment and authorize entry thereof against Sundance Kitchen, Inc. (d/b/a Sundance Kitchen & Cantina) in favor of Plaintiff Molina for the sum of Thirty-Three Thousand Dollars and No Cents (\$33,000.00), less any payments made under the Settlement Agreement.
5. This affidavit of confession of judgment is for a debt justly due to Plaintiff Molina under the terms of the Settlement Agreement, to which this Affidavit is annexed, which provides



that Defendants are to submit a total sum of \$33,000.00 to Plaintiff. The amount of this affidavit of confession of judgment represents the settlement amount of \$22,000.00 plus liquidated damages of \$11,000 for a total amount of \$33,000.

6. This affidavit is made upon good and valuable consideration, the sufficiency of which I acknowledge on behalf of Defendants, including, without limitation, the terms and provisions of the Settlement Agreement.

7. I hereby represent my understanding that upon Defendants' breach of the Settlement Agreement and failure to cure, this Confession of Judgment shall be docketed and entered in the Supreme Court of the State of New York as a judgment for \$33,000.00 (less any amounts already paid to Plaintiff pursuant to the above schedule), against Sundance Kitchen, Inc. (d/b/a Sundance Kitchen & Cantina).

Sundance Kitchen, Inc. (d/b/a Sundance Kitchen & Cantina).

By: \_\_\_\_\_  
Genaro Dominguez  
Title: President

STATE OF \_\_\_\_\_)  
: ss.:

On \_\_\_\_\_, 2020, before me personally came \_\_\_\_\_, to me known, who, by me duly sworn, did depose and say that deponent resides at \_\_\_\_\_, that deponent is the President of Sundance Kitchen, Inc. (d/b/a Sundance Kitchen & Cantina). the party described herein, and that deponent executed the foregoing Affidavit of Confession of Judgment on behalf of Sundance Kitchen, Inc. (d/b/a Sundance Kitchen & Cantina) and was authorized to do so.

\_\_\_\_\_  
Notary Public

SUPREME COURT OF THE STATE OF NEW YORK

-----X  
RIGOBERTO MOLINA FRANCISCO,  
individually and on behalf of others  
similarly situated

Plaintiff

**AFFIDAVIT OF CONFESSION  
OF JUDGMENT**

**Index No.: 19 cv 05585**

-against-

SUNDANCE KITCHEN INC. (D/B/A  
SUNDANCE KITCHEN & CANTINA),  
SUNDANCE DELI INC. (D/B/A SUNDANCE  
DELI), GENARO DOMINGUEZ , and  
CASIANO DOMINGUEZ ,

Defendants

-----X

STATE OF NEW YORK        )  
                                      : ss.:  
COUNTY OF WESTCHESTER )

1. I reside in Westchester County.
2. I, Genaro Dominguez, am the President of Sundance Deli, Inc. (d/b/a Sundance Deli). I am duly authorized to make this affidavit of confession of judgment on behalf of Sundance Deli, Inc. (d/b/a Sundance Deli).
3. Sundance Deli, Inc. (d/b/a Sundance Deli) maintains its principal place of business in Westchester County at 37 Wheeler Avenue, Pleasantville, NY 10570.
4. Pursuant to the terms of the Settlement Agreement and Release by and between RIGOBERTO MOLINA FRANCISCO ("Plaintiff") and SUNDANCE KITCHEN INC. (D/B/A SUNDANCE KITCHEN & CANTINA), SUNDANCE DELI INC. (D/B/A SUNDANCE DELI) GENARO DOMINGUEZ , and CASIANO DOMINGUEZ, (each a "Defendant" and collectively, "Defendants"), to which this Affidavit is annexed, I hereby confess judgment and authorize entry thereof against Sundance Deli, Inc. (d/b/a Sundance Deli) in favor of Plaintiff Molina for the sum of Thirty-Three Thousand Dollars and No Cents (\$33,000.00), less any payments made under the Settlement Agreement.
5. This affidavit of confession of judgment is for a debt justly due to Plaintiff Molina under the terms of the Settlement Agreement, to which this Affidavit is annexed, which provides

that Defendants are to submit a total sum of \$33,000.00 to Plaintiff. The amount of this affidavit of confession of judgment represents the settlement amount of \$22,000.00 plus liquidated damages of \$11,000 for a total amount of \$33,000.

6. This affidavit is made upon good and valuable consideration, the sufficiency of which I acknowledge on behalf of Defendants, including, without limitation, the terms and provisions of the Settlement Agreement.

7. I hereby represent my understanding that upon Defendants' breach of the Settlement Agreement and failure to cure, this Confession of Judgment shall be docketed and entered in the Supreme Court of the State of New York as a judgment for \$33,000.00 (less any amounts already paid to Plaintiff pursuant to the above schedule), against Sundance Deli, Inc. (d/b/a Sundance Deli).

Sundance Deli, Inc. (d/b/a Sundance Deli).

By: \_\_\_\_\_  
Genaro Dominguez  
Title: President

STATE OF \_\_\_\_\_)  
: ss.:

On \_\_\_\_\_, 2020, before me personally came \_\_\_\_\_, to me known, who, by me duly sworn, did depose and say that deponent resides at \_\_\_\_\_, that deponent is the President of Sundance Deli, Inc. (d/b/a Sundance Deli). the party described herein, and that deponent executed the foregoing Affidavit of Confession of Judgment on behalf of Sundance Deli, Inc. (d/b/a Sundance Deli) and was authorized to do so.

\_\_\_\_\_  
Notary Public

SUPREME COURT OF THE STATE OF NEW YORK

-----X

RIGOBERTO MOLINA FRANCISCO,  
individually and on behalf of others  
similarly situated

Plaintiff

**AFFIDAVIT OF CONFESSION  
OF JUDGMENT**

**Index No.: 19 cv 05585**

-against-

SUNDANCE KITCHEN INC. (D/B/A  
SUNDANCE KITCHEN & CANTINA),  
SUNDANCE DELI INC. (D/B/A SUNDANCE  
DELI), GENARO DOMINGUEZ , and  
CASIANO DOMINGUEZ ,

Defendants

-----X

STATE OF NEW YORK        )  
                                      : ss.:  
COUNTY OF WESTCHESTER )

1. I reside in Westchester County.

2. Pursuant to the terms of the Settlement Agreement and Release by and between RIGOBERTO MOLINA FRANCISCO(“Plaintiff”) and SUNDANCE KITCHEN INC. (D/B/A SUNDANCE KITCHEN & CANTINA),SUNDANCE DELI INC. (D/B/A SUNDANCE DELI) GENARO DOMINGUEZ , and CASIANO DOMINGUEZ,(each a “Defendant” and collectively, “Defendants”), to which this Affidavit is annexed, I hereby confess judgment and authorize entry thereof against me individually and in favor of Plaintiff Molina for the sum of Thirty-Three Thousand Dollars and No Cents (\$33,000.00), less any payments made under the Settlement Agreement.

3. This affidavit of confession of judgment is for a debt justly due to Plaintiff Molina under the terms of the Settlement Agreement, to which this Affidavit is annexed, which provides that Defendants are to submit a total sum of \$22,000.00 to Plaintiff Molina. The amount of this affidavit of confession of judgment represents the settlement amount of \$22,000.00 plus liquidated damages of \$11,000 for a total amount of \$33,000.

4. This affidavit is made upon good and valuable consideration, the sufficiency of which I acknowledge on behalf of Defendants, including, without limitation, the terms and provisions of the Settlement Agreement.

5. I hereby represent my understanding that upon Defendants' breach of the Settlement Agreement and failure to cure, this Confession of Judgment shall be docketed and entered in the Supreme Court of the State of New York as a judgment for \$33,000.00 (less any amounts already paid to Plaintiff pursuant to the above schedule), against me, Genaro Dominguez.

---

Genaro Dominguez

Sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_ 2020

---

Notary Public



SUPREME COURT OF THE STATE OF NEW YORK

-----X  
RIGOBERTO MOLINA FRANCISCO,  
individually and on behalf of others  
similarly situated

Plaintiff

**AFFIDAVIT OF CONFESSION  
OF JUDGMENT**

**Index No.: 19 cv 05585**

-against-

SUNDANCE KITCHEN INC. (D/B/A  
SUNDANCE KITCHEN & CANTINA),  
SUNDANCE DELI INC. (D/B/A SUNDANCE  
DELI), GENARO DOMINGUEZ , and  
CASIANO DOMINGUEZ ,

Defendants

-----X

STATE OF NEW YORK            )  
  : ss.:  
COUNTY OF WESTCHESTER            )

1. I reside in Westchester County.
2. Pursuant to the terms of the Settlement Agreement and Release by and between RIGOBERTO MOLINA FRANCISCO(“Plaintiff”) and SUNDANCE KITCHEN INC. (D/B/A SUNDANCE KITCHEN & CANTINA),SUNDANCE DELI INC. (D/B/A SUNDANCE DELI) GENARO DOMINGUEZ , and CASIANO DOMINGUEZ,(each a “Defendant” and collectively, “Defendants”), to which this Affidavit is annexed, I hereby confess judgment and authorize entry thereof against me individually and in favor of Plaintiff Molina for the sum of Thirty-Three Thousand Dollars and No Cents (\$33,000.00), less any payments made under the Settlement Agreement.
3. This affidavit of confession of judgment is for a debt justly due to Plaintiff Molina under the terms of the Settlement Agreement, to which this Affidavit is annexed, which provides that Defendants are to submit a total sum of \$22,000.00 to Plaintiff Molina. The amount of this affidavit of confession of judgment represents the settlement amount of \$22,000.00 plus liquidated damages of \$11,000 for a total amount of \$33,000.
4. This affidavit is made upon good and valuable consideration, the sufficiency of which I acknowledge on behalf of Defendants, including, without limitation, the terms and provisions of the Settlement Agreement.

5. I hereby represent my understanding that upon Defendants' breach of the Settlement Agreement and failure to cure, this Confession of Judgment shall be docketed and entered in the Supreme Court of the State of New York as a judgment for \$33,000.00 (less any amounts already paid to Plaintiff pursuant to the above schedule), against me, Casiano Dominguez.

---

Casiano Dominguez

Sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_ 2020

---

Notary Public